

UNITED STATES DISTRICT  
COURT SOUTHERN DISTRICT  
OF TEXAS HOUSTON DIVISION

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MELINDA GARCIA,  
PLAINTIFF

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Civil Action No. \_\_\_\_\_

MEMORIAL HERMANN,  
MEMORIAL HERMANN  
NORTHWEST HOSPITAL,  
NINA EMOELOGU, AND LINDA ARFELE,  
DEFENDANTS

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**PLAINTIFF'S ORIGINAL COMPLAINT**

**TO THE HONORABLE JUDGE OF SAID COURT:**

**A. PARTIES**

Plaintiff Melinda Garcia by and through her attorney, Tanika J. Solomon for their complaint against the Defendant, Memorial Hermann Northwest Hospital of 1635 North loop West , Houston Texas 77008 alleges and states as follows:

**B. JURISDICTION AND VENUE**

3. The Court has jurisdiction over the lawsuit because the suit arises under the Age Discrimination in Employment Act (ADEA), 29 U.S.C. §621 et seq., including incorporated provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. §201 et seq. Plaintiff was

employed as a Licensed Vocational Nurse with defendant, Memorial Hermann Northwest Hospital is, a corporation doing business within the territorial jurisdiction of the Court.

4. All conditions precedent to jurisdiction under Title VII, 42 U.S.C.A. § 2000e-5(f)(3) have occurred or been complied with, to wit: a charge of employment discrimination was filed with the Equal Employment Opportunity Commission within 180 days of the commission of the unfair employment practice; a Notification of Right to Sue and a claim for damages was given to the plaintiffs. The unlawful employment practices alleged herein were committed within the State of Texas.

#### **C. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

5. Plaintiff timely filed a charge of discrimination against defendant with the Equal Employment Opportunity Commission (EEOC). Plaintiff files this complaint within 90 days after receiving a notice of the right to sue from the EEOC. The EEOC issued its right to sue notice on July 31, 2014.

#### **D. DISCRIMINATION UNDER THE ADEA**

6. Plaintiff is an employee within the meaning of the ADEA and belongs to the class of employees protected under the statute, namely, employees over the age of 40. Plaintiff was a mere 5 months away from retirement.

7. Defendant is an employer within the meaning of the ADEA, is engaged in an industry affecting commerce, and has 20 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. Defendant is a healthcare facility which employs Licensed Vocational Nurses and Registered nurses on its staff.

8. Defendant intentionally discriminated against plaintiff because of her age in violation of the ADEA by wrongfully terminating Plaintiff from her position without cause and in violation of the Defendant's own employment practices a mere 5 months before her date of retirement. Defendant failed to properly investigate the facts leading up to Plaintiff's termination. Defendant violated its own impartial administrative processes by denying Plaintiff of an impartial mediation process. The Defendant thus intentionally deprived her of her wages, benefits, healthcare and pension without following its own procedural guidelines both written and customary.

#### **F. DAMAGES**

9. As a direct and proximate result of defendant's conduct, plaintiff suffered the following injuries and damages:

- a. Plaintiff was discharged from employment with defendant. Although plaintiff has diligently sought other employment, she has been unable to find a job at comparable pay and seniority. In addition, plaintiff has incurred expenses in seeking other employment: and has had to pay for medical treatment that otherwise would have been covered by the health benefits plan offered by defendant.
- b. Plaintiff suffered loss of her pension or retirement benefits.
- c. Plaintiff seeks compensation for all lost wages and benefits, including loss of Social Security benefits. Reinstatement of plaintiff in her previous position is

impractical and unworkable. Therefore, plaintiff seeks an award of front pay and retirement benefits to compensate her.

- d. Defendant's conduct was an intentional and willful violation of the ADEA. Plaintiff is entitled to an award of liquidated damages within the meaning of the ADEA and the FLSA.

**G. ATTORNEY FEES**

- 10. Plaintiff is entitled to an award of attorney fees and costs under the ADEA.

**H. PRAYER**

- 11. For these reasons, plaintiff asks for judgment against defendant for the following:

- a. an award of back pay;
- b. an award of prejudgment interest on lost wages and benefits and postjudgment interest on all sums, including attorney fees.
- c. an award for reasonable attorney fees.
- d. Costs of suit.
- e. All other relief the Court deems appropriate.

Respectfully submitted by:



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